

Decision 16-09-049 September 29, 2016

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of Application of Volcano  
Telephone Company (U1019C) to Review  
Intrastate Rates and Charges, Establish a  
New Intrastate Revenue Requirement and Rate  
Design, and Modify Selected Rates.

Application 15-12-002  
(Filed December 1, 2015)

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT;  
APPROVING INTRASTATE RATES AND CHARGES; ESTABLISHING NEW  
INTRASTATE REVENUE REQUIREMENT AND RATE DESIGN; AND  
MODIFYING SELECTED RATES FOR VOLCANO TELEPHONE COMPANY**

## TABLE OF CONTENTS

Title	Page
DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT; APPROVING INTRASTATE RATES AND CHARGES; ESTABLISHING NEW INTRASTATE REVENUE REQUIREMENT AND RATE DESIGN; AND MODIFYING SELECTED RATES FOR VOLCANO TELEPHONE COMPANY ...	2
Summary .....	2
1. Background and Procedural History .....	4
2. Public Participation Hearing.....	7
3. Volcano Telephone Company .....	7
4. Legal and Policy Framework for this GRC .....	10
5. California High-Cost Fund-A .....	11
6. ORA's Position .....	13
7. Settlement Agreement Between ORA and Volcano .....	15
7.1. Settlement Agreement and Rule 12.1 Analysis .....	19
8. Safety Considerations .....	23
9. Conclusion .....	23
10. Admission of Testimony into Evidence .....	23
11. Confidential Testimony to be Filed Under Seal.....	24
12. Categorization and Need for Hearing .....	24
13. Waiver of Comment Period .....	25
14. Assignment of Proceeding .....	25
Findings of Fact.....	25
Conclusions of Law .....	27
ORDER .....	29
APPENDIX 1 -	

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT;  
APPROVING INTRASTATE RATES AND CHARGES; ESTABLISHING NEW  
INTRASTATE REVENUE REQUIREMENT AND RATE DESIGN; AND  
MODIFYING SELECTED RATES FOR VOLCANO TELEPHONE COMPANY**

**Summary**

This decision adopts and approves the All-Party Settlement Agreement<sup>1</sup> between the California Public Utilities Commission's Office of Ratepayer Advocates (ORA) and Volcano Telephone Company (Volcano).<sup>2</sup> This decision finds that the Settlement Agreement between the parties adopted several of ORA's proposals, which are found to be supported by thorough analysis, and good arguments, and conclusions. This decision finds that the settlement between the parties is reasonable in light of the whole record in this proceeding, consistent with the law and in the public interest.

This decision: (1) adopts ORA's proposal for increased rates for Volcano's residential and business customers that are reasonably comparable to the rates urban customers pay, pursuant to Pub. Util. Code § 275.6(c)(3); (2) authorizes a revenue requirement for Volcano based on ORA's analysis and proposed deductions; and (3) adopts new affiliate transaction rules based on ORA's proposals.

---

<sup>1</sup> The "All-Party Settlement Agreement" is used interchangeably with "Settlement Agreement" in this decision.

<sup>2</sup> ORA and Volcano are the only parties in this proceeding, and both are hereinafter referred to as "the parties."

This decision sets Volcano's tariffed basic residential rates at \$24.00 (exclusive of any surcharges, fees or taxes) and business rates at \$34.00 (exclusive of any surcharges, fees or taxes) effective January 1, 2017. The increased rates adopted in this decision are inclusive of the Extended Area Service Charge and the Access Recovery Charge.

This decision adopts an assumed intrastate revenue requirement of \$11,148,636 for the 2017 test year (TY) including a subsidy draw of \$6,960,937 from the California High Cost-Fund-A. The assumed intrastate revenue requirement reflects several adjustments (deductions) to Volcano's requested intrastate revenue requirement, and affirms that the results of the cost of capital proceeding in Application (A.) 15-09-005 shall be used to modify/adjust the figure adopted herein. Based on the Settlement Agreement, for purposes of calculating the revenue requirement for the 2017 TY, the parties agreed that Volcano's rate of return will temporarily be assumed at 14.51% as requested in this Application. The parties agreed, and this decision affirms, that this assumed total revenue requirement of \$11,148,636 would be adjusted and updated based on the results of the cost of capital proceeding in A.15-09-005<sup>3</sup> according to a formula<sup>4</sup> agreed to by the parties.

---

<sup>3</sup> For example, if the Rate of Return adopted in A.15-09-005 is ten percent (10%), Volcano's revenue requirement for the 2017 TY would be \$9,886,104, rather than \$11,148,636.

<sup>4</sup> See Section 7 (1) of this decision for the formula.

This decision requires Volcano to submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the above formula within 30 days of the issuance of a final decision in A.15-09-005. To the extent that the cost of capital adopted in A.15-09-005 defers the cost of debt to a calculation in this General Rate Case, this decision requires Volcano to submit information calculating its cost of debt in its Tier 2 advice letter filing, in accordance with any direction or criteria set or adopted in A.15-09-005. Based on the following forecasted revenues, this decision accepts and sets Volcano's rate design as follows:

<b>Source</b>	<b>Amount</b>
Local Network Services Revenues	\$3,433,414
Interstate Universal Service Fund Support for Intrastate Revenue Requirement	\$759,475
Intrastate Access Revenues.	\$672,250
Miscellaneous and Uncollectible Revenues	\$102,549
CA High Cost-Fund-A	\$6,180,949 <sup>5</sup>
Total Revenue Requirement for 2017 Test Year	\$11,148,636

This decision adopts new affiliate transaction rules, and requires Volcano to abide by the new rules regarding its interactions with its affiliates as discussed in Section 7 below.

Finally, this decision closes A.15-12-002.

## **1. Background and Procedural History**

On December 1, 2015, in response to the General Rate Case (GRC) Application cycle for the Small Local Exchange Carriers (LECs) listed in Group A in the California Public Utilities Commission (Commission) Decision

---

<sup>5</sup> Based on the current assumption of 14.51% cost of capital, and subject to change per the cost of capital adopted in A.15-09-005.

(D.) 15-06-048, Volcano Telephone Company (Volcano) submitted this GRC Application (A.)15-12-002 to the Commission: (1) for approval of its intrastate rates and charges for regulated intrastate telecommunications services; (2) to update its intrastate revenue requirement; and (3) to establish a rate design "that will give Volcano a reasonable opportunity to meet its Revenue requirement."<sup>6</sup>

As required by Rule 3.2, Volcano complied with the Commission's Customer Notice requirements by timely notifying its customers by bill inserts of rate increases to some services effective January 1, 2017, and published Notice of its Application approved by the Commission's Public Advisor's Office in newspapers of general circulations in Amador and Calaveras counties on several dates between December 25, 2015 and January 19, 2016. Volcano filed its Notice of its compliance with Rule 3.2 with the Commission on January 15, 2016.

On January 4, 2016, the Office of Ratepayer Advocates (ORA) protested Volcano's Application, concluding that numerous requests in the Application will have direct impacts upon rates, charges, and the California High-Cost Fund-A (CHCF-A) subsidies. ORA argued that the reasonableness of the assumptions used by Volcano in its rate design and the accuracy of the calculations underlying Volcano's requests must be reviewed to ensure that the requested relief is just and reasonable. Accordingly, ORA raised a number of issues regarding A.15-12-002 including: (1) whether the rate increase for all residential customers as proposed in Volcano's proposed rate design is reasonable; (2) whether Volcano's plan to draw a subsidy of \$6,960,937 for

---

<sup>6</sup> Revenue requirement is defined as "the amount that is necessary for a telephone corporation to recover its reasonable expenses and tax liabilities and earn a reasonable rate of return on its rate base." (See Pub. Util. Code § 275.6(b)(5).)

test year (TY) 2017 is reasonable and supported by the record; (3) whether Volcano's plan to establish revenue requirements for TY 2017 using forecasted corporate expenses that exceed the Federal Communications Commission's limits adopted in decision D.14-12-084 is reasonable and supported by the record; and (4) whether Volcano's overall quality of service and compliance with General Orders pertaining to safety and reliability is appropriate.

On February 5, 2016, a prehearing conference was held in this proceeding. On February 18, 2016, the Assigned Commissioner issued her Scoping Memo and Ruling that, among others, confirmed the scope and schedule for the proceeding, and identified issues to be briefed and decided in this proceeding.

The main issues identified in the Scoping Memo and Ruling were: (1) what level of revenue requirement is necessary for Volcano to operate in a manner that allows it to deliver safe, reliable, high-quality service, fulfill its "carrier of Last Resort" (COLR) obligations, and afford Volcano a fair opportunity to earn a reasonable rate of return utilizing a 2017 TY; and (2) how Volcano's rate design should be structured?

The parties agreed that the issues raised in ORA's protest, listed above, would be addressed within the scope of the two main issues listed herein above. On April 25, 2016, ORA served its opening testimony, and on May 23, 2016 Volcano served its rebuttal testimony.

On June 13, 2016, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b) and consequently arrived at an All-Party Settlement Agreement resolving all issues in this proceeding.

On June 23, 2016, the parties filed a Joint Motion for Adoption of the All-Party Settlement Agreement (Settlement Agreement). On July 15 and July 28, 2016, the parties filed additional information with the Commission in

support of the Settlement Agreement as directed by the Administrative Law Judge (ALJ) in a ruling issued on June 30, 2016.

## **2. Public Participation Hearing**

On April 11, 2015, the Commission held a Public Participation Hearing (PPH) at the Jackson Rancheria Casino Resort in Jackson, California, to take comment from the public. Speakers included the attorney for Volcano, ORA's representative, and public members including the County Supervisor for Amador County, a representative from the Central Sierra Connect Broadband Consortia (a state-funded outreach and advocacy program), and Mr. Michael Spence, speaking for himself. Following the PPH, the Commission's Public Advisor's Office received other write-in comments. The comments received were generally supportive of Volcano and its services, with most speakers imploring the Commission not to increase their rates beyond what Volcano recommended. One commenter was critical of the CHCF-A program and subsidy.

## **3. Volcano Telephone Company**

Volcano is a local exchange carrier providing telephone services in the unincorporated communities of Pine Grove, Pioneer, Volcano, West Point, Kirkwood Meadows, and adjacent territory in portions of Alpine, Amador, Calaveras, and El Dorado Counties. Based on the testimony submitted by Volcano, Volcano serves an approximate 420 square mile service territory in portions of these four counties. In the areas served, "Volcano has 9,161 access



lines, including 1,137 business lines and 8,024 residential lines, based on October 2015 counts.”<sup>7</sup>

According to Volcano, the areas served are characterized by rugged, mountainous terrain, thick forest and extreme weather, and its customers’ locations are distant from one another making the area very costly to serve. According to the testimony served, Volcano serves several “anchor institutions,” including: (1) the Pine Grove Conservation Camp; (2) Caltrans Maintenance Stations in Pine Grove, West Point, and Caples Lake; (3) CalFire Fire Protection Stations in Pine Grove, West Point and Pioneer; (4) United States Forest Service Branch in Pioneer (Amador Ranger District), and (5) Pacific Gas and Electric Company’s Hydro Power facilities at Tiger Creek and West Point. Volcano asserts that it works closely and effectively with all customers to ensure that they have reliable, innovative and evolving services, as needed.

Volcano is a wholly-owned subsidiary of Volcano Communications Company, which is the holding company for seven immediate subsidiaries including Volcano. The other six subsidiaries of Volcano Communications Company are: Volcano Vision, Inc.; Sunrise Square Corporation; Volcano Cellular, Inc.; Volcano Telecom, Inc. (a.k.a. Volcano Pay Phone); Volcano Internet Provider; and Volcano Long Distance.<sup>8</sup>

Volcano’s office building is at 20000 State Highway 88 in Pine Grove, California. Volcano owns the building and land, but shares its offices with three

---

<sup>7</sup> See the Opening Testimony of John Lundgren on behalf of Volcano Telephone Company (December 1, 2015) at 3, Question 11.

<sup>8</sup> Opening Testimony of John Lundgren on behalf of Volcano Telephone Company (December 1, 2015) at 2 (Question 8).

affiliates; Volcano Vision; Volcano Internet Provider; and Volcano Telecom, Inc. Volcano shares the land and building expenses, including maintenance salaries, utilities, and benefits with these affiliates. It allocates expenditures on the building to the three affiliates based on the percentage of each affiliate's square footage usage of the office building. Importantly, Volcano charges its repairs and maintenance expenses only to these three affiliates and none to the other three affiliates.<sup>9</sup>

In its Application, Volcano requested that the Commission review and approve its estimated intrastate revenue requirement of \$11,647,597 for TY 2017, including a subsidy draw of \$6,960,937 from the CHCF-A.<sup>10</sup> Volcano's 2017 TY estimated intrastate revenue requirement represents an increase from its current Commission approved intrastate revenue requirement of \$10,280,676, and an increase in its current CHCF-A subsidy draw of \$3,469,943.77 based on its last rate case for the 2008 TY.<sup>11</sup> Also, Volcano's GRC Application requested a change to its basic residential local exchange rate of \$20.25 per month, and requested other selected rate changes, including charges for the Extended Area Service.

---

<sup>9</sup> In its testimony, ORA argued that the methodology used by Volcano in allocating costs to its affiliates was unreasonable because Volcano's methodology "does not fully capture its affiliates' share of the office building's repairs and maintenance costs..." Accordingly, ORA sought and secured a reduction in Volcano's overall intrastate revenue requirement for the 2017 TY, in order to address this and other disputes between ORA and Volcano. ORA also secured agreement with Volcano on new affiliate transaction rules, as discussed below.

<sup>10</sup> In 1987, the CHCF-A was established for the purpose of minimizing basic telephone service rates' disparity between rural and metropolitan areas.  
<http://www.ora.ca.gov/chcfa.aspx>.

<sup>11</sup> See Res. T-17108 (November 1, 2007).

With its Application, Volcano submitted and served direct testimony of three witnesses: (1) John Lundgren, Volcano's Vice President and Director of Network Services; (2) Chad Duval of Moss Adams LLP, Volcano's cost and regulatory consultant; and (3) Dr. Dale Lehman, Ph.D.

#### **4. Legal and Policy Framework for this GRC**

Pub. Util. Code § 451 provides that public utilities may demand and receive only just and reasonable charges, and must provide “adequate, efficient, just and reasonable service” in a way that promotes the “safety, health, comfort, and convenience of [their] patrons, employees, and the public.” Pub. Util. Code § 454 requires the Commission to review proposed rates changes, make a finding that they are justified, and authorize the proposed rates changes before they can take effect.

Under Pub. Util. Code § 728, the Commission has the authority to “determine what is just and reasonable, disallow costs that are found to be unjust or unreasonable, and prevent a utility from passing on to the ratepayers unreasonable costs for materials and services by disallowing expenditures that the Commission finds unreasonable.”<sup>12</sup> Under the Public Utilities Act, the Commission’s primary purpose is to “insure the public adequate service at [just and] reasonable rates without discrimination...”<sup>13</sup>

Pub. Util. Code § 275.6 requires the Commission to minimize telephone rate disparities between rural and metropolitan areas to keep rates affordable in

---

<sup>12</sup> *Id.*

<sup>13</sup> *Pacific Telephone and Telegraph Company v. Public Utilities Commission* (1950) 34 Cal.2d 822,836 [215P.2d 441].

areas with lower population densities. According to Pub. Util. Code § 275.6(c)(2), the Commission must “employ rate of return regulation to determine a small independent telephone corporation’s revenue requirement in a manner that provides revenues and earnings sufficient to allow the telephone corporation to deliver safe, reliable, high-quality voice communication service and fulfill its obligations as a carrier of last resort in its service territory, and to afford the telephone corporation a fair opportunity to earn a reasonable return on its investments, attract capital for investment on reasonable terms, and ensure the financial integrity of the telephone corporation.” Thus, the scope of this proceeding must include all relevant information necessary to determine whether the applicant’s proposed revenue requirement and other requests are just and reasonable, and permit the utility to fulfill its duties under § 451.

## **5. California High-Cost Fund-A**

The intent of the CHCF-A is to provide a source of supplemental revenues to small Incumbent Local Exchange Carriers whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. As stated in D.14-12-084, “[u]niversal, reliable, affordable, service is critical to public safety and benefits that state as a whole.”<sup>14</sup> The CHCF-A currently supports eligible small independent telephone companies in helping rural residents stay connected to essential services to maintain public health and safety.

The CHCF-A program is funded by a surcharge assessed on revenues collected from end users of intrastate telecommunications services subject to surcharge. The Commission periodically reviews the program fund levels and

---

<sup>14</sup> D.14-12-084 at 53.

adjusts the surcharge rate to ensure the program is sufficiently funded. All telecommunications carriers<sup>15</sup> and interconnected Voice-over Internet Protocol service providers<sup>16</sup> are required to assess the CHCF-A surcharge rate of 0.35%.<sup>17</sup>

In administering the CHCF-A program, the commission must “ensure that rates charged to customers of small independent telephone corporations are just and reasonable and are reasonably comparable to rates charged to customers of urban telephone corporations.”<sup>18</sup> Historically, “comparable” has meant that target rates for residential customers are no more than 150% of basic service rates for California’s urban telephone customers. The “150% formula” was originally established in D.91-09-042, and the formula has been used in part to evaluate the reasonableness of rates charged to customers. At the conclusion of its CHCF-A rulemaking,<sup>19</sup> the Commission set the all-inclusive reasonable rate range of \$30.00 to \$37.00.<sup>20</sup>

In this GRC, as in all others, the Commission seeks to promote the public interest. Promoting the public interest in this case requires that the Commission carefully review the revenue requirement request of Volcano with an eye toward protecting not only Volcano’s ratepayers and customers, but also all other carriers’ customers that pay into the CHCF-A from which Volcano is requesting

---

<sup>15</sup> See Pub. Util. Code § 275.

<sup>16</sup> See Pub. Util. Code § 285(c).

<sup>17</sup> Resolution T-17453, issued on November 21, 2014, set a surcharge rate of 0.35% effective January 1, 2015.

<sup>18</sup> Pub. Util. Code § 275.6 (c)(3).

<sup>19</sup> See Proceeding R.11-11-007.

<sup>20</sup> See D.14-12-084.

funding. In carrying out this responsibility, the Commission assesses whether Volcano has justified its revenue increase proposals, and disallows those proposals that have not been justified.

In its Application, Volcano requested a draw of \$6,960,938 in this current GRC for the 2017 TY, which is an increase from its currently authorized CHCF-A subsidy draw of \$3,469,943.77.<sup>21</sup> Pursuant to Pub. Util. Code § 275.6(c)(7), the Commission must ensure that Volcano's CHCF-A support is not excessive so that the burden on all contributors to the CHCF-A is limited."

## **6. ORA's Position**

California consumer interests in this GRC are represented by ORA,<sup>22</sup> and ORA's statutory mandate requires it to "advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission," and "obtain the lowest possible rate for service consistent with reliable and safe service levels." Despite ORA's role in this case, the burden of presenting evidence and justifications for its request remains with Volcano.

ORA discharged its statutory responsibility in this proceeding, and it was diligent in its work and approach to this proceeding. First, ORA filed a protest to Volcano's GRC Application and raised various issues regarding Volcano's Application and requests in this proceeding.<sup>23</sup> ORA conducted a site visit of Volcano on February 26, 2016; issued sixteen detailed sets of data requests, including more than 80 specific questions, many with numerous subparts; and

---

<sup>21</sup> See Res. T-17108 (November 1, 2007) for authorized CHCF-A subsidy for the 2008 TY.

<sup>22</sup> See Pub. Util. Code § 309.5.

<sup>23</sup> Those issues raised in ORA's protest are listed in Section 1 (Background and Procedural History) above.

requested information and materials from Volcano via numerous email correspondence and conference calls in order to examine the issues raised by the Application and test the validity of Volcano's statements and conclusions.<sup>24</sup> Further, ORA submitted prepared testimony from four witnesses, and exchanged information with Volcano regarding the Application over the course of this proceeding. Lastly, ORA participated in the PPH held in Jackson, California on April 11, 2016. At the PPH, ORA explained its role in this proceeding to the public.

ORA's protest to the Application and its testimony were thoughtfully prepared, and its proposals and recommendations were reasonably supported by thorough analysis, calculations and conclusions. ORA's work in this proceeding was helpful and persuasive, and ORA's effective advocacy in this proceeding was a contributing factor to the ALJ's recommendation that the Settlement Agreement be adopted by the Commission.

Due to ORA's participation in this case, Volcano: (1) accepted increased rates for its residential and business customers that are reasonably comparable to the rates urban customers pay, pursuant to Pub. Util. Code § 275.6(c)(3); (2) reduced its revenue requirement by eliminating unsupported expense items based on ORA's analysis and conclusions; and (3) accepted new affiliate transaction rules that will lead to greater accountability and benefits to ratepayers.

Volcano's current rate for single-line residential local exchange telephone service is \$20.25, and its current rate for single-line business local exchange

---

<sup>24</sup> See the Joint Motion for the Adoption of the All-Party Settlement Agreement, dated June 23, 2016 at 2.

telephone service is ranges from \$30.70 to \$31.60 in its four exchanges, exclusive of any surcharges, fees or taxes.

Overall, the above discussion demonstrates that ORA effectively discharged its responsibilities to work to protect the interests of California consumers and ratepayers, as required by law.

## **7. Settlement Agreement Between ORA and Volcano**

In accordance with Article 12 of the California Public Utilities Commission's Rules of Practice and Procedure (Rules), on June 23, 2016, Volcano and ORA submitted a "Joint Motion for Adoption of All-Party Settlement Agreement" (Joint Motion) together with the fully executed Settlement Agreement. The parties request that the Commission approve the Settlement Agreement pursuant to Rule 12.1. A copy of the Settlement Agreement, which resolves Volcano's GRC in its entirety, is attached hereto as Appendix 1.

Based upon the mutual agreement of the parties, as reflected in the Settlement Agreement, Volcano and ORA agreed to a resolution of Volcano's GRC Application as follows:

### **1. The results of Volcano's operations figures shall incorporate the following elements:**

- a. Rate of return: For purposes of calculating revenue requirement, the parties agree to an assumed 14.51% rate of return. The parties further agree, however, that the revenue requirement to be adopted for the 2017 TY should reflect the results of the cost of capital adopted in A.15-09-005.



- b. Revenue requirement: Based on the assumed 14.51% rate of return, the parties agree to a revenue requirement in the amount of \$11,148,636. The revenue requirement will be updated based on the results of the cost of capital adopted in A.15-09-005, according to the following formula:

Revenue requirement = \$11,148,636 - [(\$2,443,887{current return} x 1.66208)] - (\$16,842,777 {rate base} x *new cost of capital percentage* x 1.66208)]; <sup>25</sup>

Within 30 days of the issuance of a final decision in A.15-09-005, Volcano will submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the above formula. The resulting revenue requirement will be implemented as of January 1, 2017. To the extent that the cost of capital adopted in A.15-09-005 defers the cost of debt to a calculation in this rate case, Volcano shall submit information calculating its cost of debt in its Tier 2 advice letter filing in accordance with any direction or criteria in A.15-09-005.

- c. End user rates and rate design:
- i. Volcano's tariffed basic, residential rates will be modified to \$24.00, exclusive of any surcharges, fees, or

---

<sup>25</sup> Represented differently (with **added explanations/definitions**), this formula could also be stated as follows:

Adopted Revenue Requirement= \$11,148,636 (stipulated revenue requirement at assumed 14.51 % rate of return on rate base) -  
[[ \$2,443,887 (stipulated net operating revenue/income at assumed 14.51 % rate of return on rate base) x 1.66208 (net-to-gross multiplier)] -  
[ \$16,842, 777 (stipulated rate base for use in calculating adopted revenue requirement) x adopted rate of return on rate base from A.15-09-005 x 1.66208]].

(Joint Response of the parties to the June 30, 2016 ALJ Ruling Directing the parties to Provide Additional Information in Support of the June 23, 2016 All-Party Settlement Agreement, P 5.)

taxes, effective January 1, 2017, with no further adjustments until Volcano's next rate case.

- ii. Volcano's tariffed business rates will be modified to \$34.00, exclusive of any surcharges, fees, or taxes, effective January 1, 2017, with no further adjustments until Volcano's next rate case.
- iii. Volcano's rate design will be comprised of the following forecasted revenues:
  - 1. \$3,433,414 in Local Network Services revenues;
  - 2. \$759,475 in Interstate Universal Service Fund support for intrastate revenue requirement;
  - 3. \$672,250 in intrastate access revenues;
  - 4. \$102,549 in miscellaneous and uncollectible revenues; and
  - 5. The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current assumption of 14.51% cost of capital, a CHCF-A draw of \$6,180,949.

**2. Volcano shall abide by the following new affiliate transaction rules:**

- a. Volcano and each of its affiliates must be held in separate legal entities.
- b. Volcano shall maintain separate books from its affiliates as to all transactions.
- c. Volcano shall maintain separate bank accounts from its affiliates as to all transactions.
- d. The cost of any advertising or marketing conducted jointly on behalf of Volcano and any of its affiliates will be apportioned according to the extent that the advertising or marketing benefits each company. Volcano's share of the cost of such advertising or marketing will not exceed an even division of the cost amongst all companies involved in the joint advertising or marketing.

- e. Volcano shall not pay the cost of any joint sponsorships, fundraisers, or charitable donations with its affiliates.
- f. Volcano shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
- g. Volcano shall conduct financial transactions with its affiliates at "arms-length."
- h. Volcano will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Volcano from unaffiliated third parties for similar transactions.

In addition to the above, the parties further agreed that:<sup>26</sup>

- 3. The provisions of the Settlement Agreement shall become effective only after the Commission has entered an order approving the Settlement Agreement without modification;**
- 4. In the event this Settlement Agreement is not accepted in its entirety by the Commission, it shall be deemed withdrawn ...;**
- 5. All testimony already served in the proceeding shall be admitted into the record of this proceeding. Rights to object and cross-examine witnesses are reserved;**
- 6. The provisions of this Settlement Agreement shall not be a precedent;**
- 7. The Commission shall have exclusive jurisdiction over all issues related to this Settlement Agreement, unless as allowed by law;**
- 8. This Settlement Agreement resolves all outstanding issues in this proceeding; and**
- 9. This Settlement Agreement cannot be amended or changed except by a written amendment signed by both Parties and approved by the Commission.**

---

<sup>26</sup> For the full list of all matters agreed to by the parties and for the exact language of the parties' agreement, see the Settlement Agreement (Appendix 1), Items 1 through 12.

Since the filing of the Joint Motion for the adoption of the Settlement Agreement, and pursuant to the ALJ ruling, the parties have clarified information in the Settlement Agreement and submitted two additional documents namely: (1) the Joint Response of (the parties) to the June 30, 2016 ALJ Ruling Directing the parties to Provide Additional Information in Support of the June 23, 2016 All-Party Settlement Agreement (Filed on July 15, 2016); and (2) the Supplemental Joint Response of (the parties) to the June 30, 2016 ALJ Ruling Directing the parties to Provide Additional Information in Support of the June 23, 2016 All-Party Settlement Agreement (Filed on July 28, 2016 ).

The parties agree that the Settlement Agreement reflects the agreed-upon resolution of Volcano's GRC, and that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest. Accordingly, the parties argue that the Settlement Agreement meets the standard under Rule 12.1(d), and request that it should be adopted by the Commission as a full resolution of the issues in this proceeding.

### **7.1. Settlement Agreements and Rule 12.1 Analysis**

In evaluating a settlement, the Commission is guided by Rule 12.1(d), which requires that the settlement be reasonable in light of the whole record, consistent with law, and be in the public interest.<sup>27</sup> Generally, the parties' evaluation carries material weight in the Commission's review of a settlement.<sup>28</sup>

---

<sup>27</sup> Rule 12.1(d); *See also*, D.07-05-060.

<sup>28</sup> *In re Southern California Gas Co.* (1999) D.00-09-034, 2000 Cal. PUC LEXIS 694, at \*31.

The record of this proceeding demonstrates that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and be in the public interest, as discussed below.

The Settlement Agreement was reached after significant negotiations between the parties.<sup>29</sup> ORA conducted a site visit of Volcano on February 26, 2016, and issued 16 detailed sets of data requests, and requested additional materials from Volcano through email correspondence and conference calls in order to examine the issues raised by the Application, and test the validity of Volcano's statements and conclusions. Volcano responded to each of the data requests with substantially responsive information. In addition, Volcano submitted testimony from three witnesses (addressing the issues raised by the Application) together with its Application, and provided rebuttal testimonies from four witnesses (to ORA's April 25, 2016 responsive testimony). The parties engaged in substantive settlement discussions beginning around May 23, 2016, and on June 13, 2016, ORA and Volcano held a duly-noticed all-party settlement conference in compliance with Rule 12.1(b), resulting in the execution of the Settlement Agreement herein.

The Settlement Agreement resolves each and every issue identified in the Assigned Commissioner's Scoping Memo and Ruling issued on February 18, 2016, and addresses issues raised in ORA's protests, and is a reasonable resolution of these issues. Pursuant to the Settlement Agreement, Volcano accepts rate increases for its residential and business customers, and agrees to an assumed intrastate revenue requirement of \$11,148,636 for the

---

<sup>29</sup> See the parties' Joint Motion, at 2; and the Settlement Agreement, at 2.

2017 TY. The assumed intrastate revenue requirement reflects various adjustments/deductions requested by ORA,<sup>30</sup> and substantially addresses the issues raised by ORA in its protest and testimony. Based on this record, the assumed intrastate revenue requirement reflects a total reduction of \$498,961 (close to 70 percent of all reductions sought by ORA) to Volcano's requested amount for the 2017 TY.<sup>31</sup>

Volcano accepts new affiliate transaction rules that will lead to greater transparency, greater accountability and greater reporting of Volcano's dealing and transactions with its affiliates. The new affiliate transaction rules agreed to by the parties in the Settlement Agreement will thus benefit ratepayers.

The proposed Settlement Agreement is also reasonable because it saves the Commission and the parties significant time and, protects the public interest when compared to the uncertain risk, expense and complexity of a litigated outcome.

The Settlement Agreement is supported by the record in this proceeding, and benefits the public by: (1) reducing the amount of Volcano's CHCF-A subsidy draw, by about half a million dollars from what Volcano requested in its Application for the 2017 TY; (2) increasing rates for Volcano's residential and

---

<sup>30</sup> See the comparison of parties' positions and settlement terms attached as an exhibit to Appendix 1.

<sup>31</sup> In its Application Volcano forecasted \$11,647,597 as its intrastate revenue requirement for the 2017 TY. After Volcano received ORA's testimony in this proceeding, Volcano revised its forecasted intrastate revenue requirement to \$11,372,823 for the 2017 TY (decrease of \$274,774 or 2.36%). This amount was further reduced to \$11,148,636 pursuant to the terms of the Settlement Agreement.

[See Rebuttal Testimony of Chad Duval [Confidential], dated May 23, 2016, at 36, Question 36 et seq.; and Appendix 1, including Exhibit 2 thereto.]

business customers so that they are reasonably comparable to the rates urban customers pay, pursuant to Pub. Util. Code § 275.6(c)(3)<sup>32</sup>; and (3) adopting new affiliate transaction rules that will lead to greater transparency, accountability and reporting of affiliates dealings and transactions. As stated above, this Settlement Agreement offers a reasonable resolution in light of the evidence, and avoids continued litigation and associated costs.<sup>33</sup>

While the Settlement Agreement is binding on the parties, it creates no precedent and, preserves the Commission's authority and jurisdiction over each and every issue in this proceeding, and over the parties with regards to the interpretation, implementation and enforcement of the Settlement Agreement. The Settlement Agreement provides sufficient information to enable the Commission to enforce its terms and discharge the Commission's future regulatory responsibilities with respect to the parties and interests in this proceeding. The Settlement Agreement does not contravene any statutory provisions or prior Commission decisions.

In conclusion, the All-Party Settlement Agreement fairly resolves all issues in this proceeding, and complies with Rule 12.1(d). Accordingly, the Commission adopts the Settlement Agreement without modification. Based on

---

<sup>32</sup> The rate increases move the rates paid by Volcano's customers towards the target rates (of not more than 150% of basic service rates of California's urban telephone customers) for Volcano's residential customers as established by the Commission in D.91-09-042, and are within the Commission established all-inclusive reasonable rate range of \$30.00 to \$37.00 for residential customers. By raising the rates, the amount of Volcano's CHCF-A subsidy draw is reduced, and the CHCF-A is not overburdened.

<sup>33</sup> See D.07-05-060, OP., at 6.

this record, hearings are no longer necessary in this proceeding. (*See also* Section 12 below)

## **8. Safety Considerations**

We have considered the potential safety implications of the Settlement Agreement and are satisfied that the intrastate revenue requirement approved in this decision will help Volcano meet the Commission's minimum safety goals and expectations for small local exchange telecommunications companies/carriers, and as a public utility that is required to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public," pursuant to Pub. Util. Code § 451.

## **9. Conclusion**

We conclude that Volcano's GRC Application should be resolved by approving the parties' All-Party Settlement Agreement. In addition, the intrastate revenue requirement of \$11,148,636 based on the terms of the Settlement Agreement should be adopted subject to the terms and conditions set forth in the Ordering Paragraphs below.

## **10. Admission of Testimony into Evidence**

Volcano and ORA agree that previously served testimony should be admitted into the record. Based on the agreement of the parties and finding good cause, we admit into the record of this proceeding: (1) Volcano testimony supporting its Application (served on December 1, 2015), consisting of the testimony of John Lundgren (public and confidential versions), Chad Duval (public and confidential versions), and Dr. Dale Lehman (public version); (2) ORA's testimony served on April 25, 2016, consisting of the public and



confidential versions of ORA's Report and Recommendation; and (3) Volcano's rebuttal testimony served on May 23, 2016, consisting of the public and confidential versions of the testimony of Brenda Shepard, (Volcano's Chief Financial Officer), and Chad Duval, and public versions of the testimony of John Lundgren and Dale Lehman.

#### **11. Confidential Testimony to be Filed Under Seal**

Both parties submitted certain reports and testimony designated as "Confidential." The marking of these reports and/or testimony as "confidential" is deemed to be a request by each party for leave to file those reports and testimony under seal pursuant to Rule 11.4. These materials, including the testimony John Lundgren, Chad Duval, Brenda Shepard and ORA, along with attached confidential reports, materials and recommendations, contain sensitive financial data, operational and other privileged information, the disclosure of which could place the moving party in serious disadvantage or unfair business disadvantage.

Accordingly, the requests are granted as set forth in the Ordering Paragraphs below, pursuant to Rule 11.4.

#### **12. Categorization and Need for Hearing**

In Resolution ALJ 176-3369, dated December 17, 2015, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were necessary. ORA filed a protest, and this proceeding was scheduled for evidentiary hearings. However, evidentiary hearings are no longer necessary as the parties have resolved all outstanding issues through the Settlement Agreement adopted by this decision. Given these developments, an evidentiary hearing is no longer necessary, and the

preliminary determination is hereby changed to indicate that evidentiary hearings are not required in this proceeding.

### **13. Waiver of Comment Period**

Because of the All-Party Settlement Agreement in this matter, this is now an uncontested matter which grants the relief requested by all parties.

Accordingly, the otherwise applicable 30-day period for public review and comment is waived pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2).

### **14. Assignment of Proceeding**

Liane M. Randolph is the assigned Commissioner and Adeniyi A. Ayoade is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. On December 1, 2015, Volcano filed this GRC Application seeking to update its intrastate rates and charges, intrastate revenue requirement, establish a rate design and increase its draw from the CHCF-A.

2. The Commission preliminarily categorized this Application as ratesetting, and determined that evidentiary hearings were necessary.

3. ORA and Volcano are the only parties in this proceeding.

4. On April 11, 2016, Public Participation Hearing took place in Jackson, California.

5. The Parties engaged in significant data exchange, after which substantive settlement discussions starting around May 23, 2016, occurred between the parties.

6. On June 13, 2016, the parties held a duly-noticed all-party formal settlement conference in compliance with Rule 12.1(b).

7. Volcano and ORA have arrived at an All-Party Settlement Agreement (Settlement Agreement) resolving all issues in this proceeding, and on

June 23, 2016, filed a Joint Motion for Commission adoption of the Settlement Agreement.

8. Based on the Settlement Agreement, the parties agreed that Volcano's rate design will be comprised of the following forecasted revenues:

- a) \$3,433,414 in Local Network Services revenues;
- b) \$759,475 in Interstate Universal Service Fund support for intrastate revenue requirement;
- c) \$672,250 in intrastate access revenues;
- d) \$102,549 in miscellaneous and uncollectible revenues; and
- e) The remainder necessary to fulfill revenue requirement from the CHCF-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current assumption of 14.51% cost of capital, a CHCF-A draw of \$6,180,949, but this figure will be updated to reflect the cost of capital established in A.15-09-005.

9. The Settlement Agreement, if approved, resolves all issues in Volcano's GRC Application and there is no need for an evidentiary hearing in this proceeding.

10. The Settlement Agreement conveys sufficient information to permit the Commission to discharge its future regulatory obligations with respect to the parties and their interests.

11. Approving the Settlement Agreement grants the relief requested by the parties, and this relief is not opposed by any party in this proceeding.

12. With the filing of the Settlement Agreement, this proceeding is an uncontested matter, and in approving the Settlement Agreement this decision grants the relief requested. Evidentiary hearings are no longer necessary.

13. On July 15 and July 28, 2016, the parties filed additional information with the Commission in support of the Settlement Agreement as directed by the Commission in a ruling issued by the ALJ on June 30, 2016.

14. Pursuant to Rule 11.4, the parties have requested to file under seal confidential materials, including reports and testimony.

### **Conclusions of Law**

1. Volcano's Application for new intrastate rates and charges for telephone services in California, and an increase in its draw from the CHCF-A should be granted as set forth in the All-Party Settlement Agreement between the Commission's ORA and Volcano (**Appendix 1**).

2. The All-Party Settlement Agreement between ORA and Volcano complies with Rule 12.1(d) and is reasonable in light of the record, consistent with law and in the public interest. Nothing in the Settlement Agreement contravenes any statute or Commission decision or rule.

3. The Settlement Agreement is reasonable because it affords Volcano to provide "adequate, efficient, just and reasonable service" in a way that promotes the "safety, health, comfort, and convenience of [their] patrons, employees, and the public." It is reasonable because it sets residential customers for Volcano's customers that are no more than 150% of basic service rates for California's urban telephone customers, reduces the amount of CHCF-A subsidy draw by Volcano, and requires Volcano to implement new affiliate transaction rules that will lead to greater accountability and benefits to ratepayers, among others.

4. The Settlement Agreement is binding on all parties.

5. The benefits of the Settlement Agreement to the public outweigh the benefits and/or burden and uncertainties of continued litigation.

6. The assumed intrastate revenue requirement of \$11,148,636 for the 2017 TY is both reasonable and supported by the record in this proceeding, and should therefore be approved.

7. The assumed intrastate revenue requirement of \$11,148,636 for the 2017 TY reflected needed adjustments (deductions) to Volcano's requested intrastate revenue requirement.

8. Within 30 days of the issuance of a final decision in A.15-09-005, Volcano shall submit a Tier 2 advice letter recalculating its revenue requirement in accordance with the following formula:

$$\text{Revenue requirement} = \$11,148,636 - [(\$2,443,887\{\text{current return}\} \times 1.66208)] - (\$16,842,777 \{\text{rate base}\} \times \text{new cost of capital percentage} \times 1.66208)].$$

9. Within 30 days of the issuance of a final decision in A.15-09-005, Volcano should be required submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the formula in paragraph 7 above as required by the Settlement Agreement.

10. The resulting revenue requirement should be implemented as of January 1, 2017.

11. To the extent that the cost of capital adopted in A.15-09-005 defers the cost of debt to a calculation in this GRC, Volcano should be required to submit information calculating its cost of debt in its Tier 2 advice letter filing in accordance with any direction or criteria in A.15-09-005.

12. The 30-day period for public review and comment of the proposed decision in this matter should be waived pursuant to Pub. Util. Code § 311(g)(2) and Rule 14.6(c)(2). Because the filing of the Settlement Agreement makes this proceeding an uncontested matter, and in approving the Settlement Agreement this decision grants the relief requested by all parties.

13. Evidentiary Hearings are not necessary in this proceeding.

14. The parties' requests to file the following confidential materials under seal should be granted for three years: (1) Volcano's confidential opening testimony of John Lundgren and Chad Duval served on December 1, 2015; (2) confidential versions of ORA's Report and Recommendation served on April 25, 2016; and (3) Volcano's rebuttal testimony of Brenda Shepard and Chad Duval served on May 23, 2016.

## **O R D E R**

### **IT IS ORDERED** that:

1. The June 23, 2016 Joint Motion by the Commission's Office of Ratepayer Advocates and Volcano Telephone Company (U1019C) for the Commission's Adoption of the All-Party Settlement Agreement in Application 15-12-002 is granted pursuant to Article 12.1 of the Commission's Rules of Practice and Procedure.

2. The All-Party Settlement Agreement between the Office of Ratepayer Advocates and Volcano Telephone Company (Volcano) (**Appendix 1**) is approved. The terms of the Settlement Agreement are adopted without modification for the purpose of determining Volcano's intrastate revenue requirement for the 2017 test year.

3. Pursuant to the terms of the Settlement Agreement, Volcano Telephone Company's Application for new intrastate rates and charges for telephone services in California, and an increase in its draw from the California High-Cost Fund-A (CHCF-A), is granted.

4. Volcano Telephone Company's rate design will be comprised of the following forecasted revenues:

a) \$3,433,414 in Local Network Services revenues;

- b) \$759,475 in Interstate Universal Service Fund support for intrastate revenue requirement;
- c) \$672,250 in intrastate access revenues;
- d) \$102,549 in miscellaneous and uncollectible revenues; and
- e) The remainder necessary to fulfill revenue requirement from the California High-Cost Fund-A, based on the revenue requirement established pursuant to the formula in subpart (b), above. Under the current assumption of 14.51% cost of capital, a CHCF-A draw of \$6,180,949, but this figure will be updated to reflect the cost of capital established in Application 15-09-005.

5. Within 30 days of the issuance of this decision, Volcano Telephone Company shall file a Tier 2 advice letter with revised tariffs setting the basic residential rate to \$24.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.

6. Within 30 days of the issuance of this decision, Volcano Telephone Company shall file a Tier 2 advice letter with revised tariffs setting the basic business rate to \$34.00 per month, exclusive of any surcharges, fees, or taxes, effective January 1, 2017.

7. Pursuant to the Settlement Agreement, Volcano Telephone Company's assumed intrastate revenue requirement of \$11,148,636 for the 2017 test year is approved as interim intrastate revenue requirement subject to the terms of the Settlement Agreement and following conditions:

- a. The assumed intrastate revenue requirement of \$11,148,636, approved by this decision for the 2017 test year, shall be adjusted and/or modified based on the results of the cost of capital proceeding in Application (A).15-09-005, in accordance with the following formula:  
$$\text{Revenue requirement} = \$11,148,636 - [(\$2,443,887 \{\text{current return}\} \times 1.66208)] - (\$16,842,777 \{\text{rate base}\} \times \text{new cost of capital percentage} \times 1.66208)].$$

- b. Within 30 days of the issuance of a final decision in Application 15-09-005, Volcano must submit a Tier 2 advice letter recalculating its revenue requirement pursuant to the above formula.

8. The resulting revenue requirement (recalculated based on the results of the cost of capital proceeding in Application 15-09-005 and in accordance with the formula in Ordering Paragraph 5.a) shall be implemented as of January 1, 2017.

9. To the extent that the cost of capital adopted in Application (A.) 15-09-005 defers the cost of debt to a calculation in this general rate case, Volcano Telephone Company shall submit information calculating its cost of debt in its Tier 2 advice letter filing in accordance with any direction or criteria in A.15-09-005.

10. If a final decision in Application 15-09-005 is not issued before January 1, 2017, and the current assumption of 14.51% cost of capital (interim rate) and a CHCF-A draw of \$6,180,949 is utilized, Volcano Telephone Company shall adjust/modify the interim intrastate revenue requirement approved by this decision in accordance with the results of the cost of capital proceeding in Application (A).15-09-005. Within 30 days of the issuance of a final decision in A.15-09-005, Volcano Telephone Company shall file a Tier 2 Advice Letter to true-up the difference between the interim intrastate revenue requirement for test year 2017 and the interim rate (including the 2017 California High Cost Fund-A support and interim rate relief) for the period January 1, 2017 through the last day of implementation of the interim intrastate revenue requirement and rates adopted in this decision. Volcano Telephone Company shall remit any resulting refunds from the true-up, to the California High Cost Fund-A, within 30 days of the Commission's approval of its Tier 2 Advice Letter true-up filing.



11. Subject to the specific terms of, and actual language in, the All-Party Settlement Agreement:

- a. Volcano Telephone Company (Volcano) and each of its affiliates shall be held in separate legal entities.
- b. Volcano shall maintain separate books from its affiliates as to all transactions.
- c. Volcano shall maintain separate bank accounts from its affiliates as to all transactions.
- d. The cost of any advertising or marketing conducted jointly on behalf of Volcano and any of its affiliates will be apportioned according to the extent that the advertising or marketing benefits each company. Volcano's share of the cost of such advertising or marketing will not exceed an even division of the cost amongst all companies involved in the joint advertising or marketing.
- e. Volcano shall not pay the cost of any joint sponsorships, fundraisers, or charitable donations with its affiliates.
- f. Volcano shall not transfer any physical assets that are used and useful without first obtaining necessary approvals from the Commission.
- g. Volcano shall conduct financial transactions with its affiliates at "arms-length."
- h. Volcano will ensure that affiliate transactions are conducted at rates and upon terms no less advantageous than those otherwise available to Volcano from unaffiliated third parties for similar transactions.

12. The specific terms of this Settlement Agreement as approved and adopted herein shall be binding on all parties. The terms of the All-Party Settlement Agreement shall be enforceable by the Commission against Volcano Telephone Company (Volcano) and any violation of its terms may subject Volcano to Commission actions, including penalties or sanctions.

13. The parties must comply with all provisions of the Settlement Agreement. Any conflict between the terms of the Settlement Agreement and this decision shall be resolved in favor of the Settlement Agreement.

14. All testimony served in this proceeding are admitted into the record of this proceeding.

15. The provisions of this Settlement Agreement shall not be construed as precedent on the Commission.

16. The Commission shall have exclusive jurisdiction over all issues related to this Settlement Agreement.

17. Evidentiary hearings are no longer required in this proceeding.

18. The parties' requests to place the following confidential materials under seal are granted for three years from the date of this decision: (1) the confidential opening testimony of John Lundgren and Chad Duval served by Volcano Telephone Company on December 1, 2015 ; (2) the confidential versions of the Office of Ratepayer Advocates' Report and Recommendation served on April 25, 2016; and 3) Volcano Telephone Company's rebuttal testimony of Brenda Shepard and Chad Duval served on May 23, 2016. The above confidential materials shall remain under seal for three years. During the three year period, this information shall not be publicly disclosed except on further Commission order or by an Administrative Law Judge ruling. If the parties believe that it is necessary for this information to remain under seal for longer than three years, the parties may file new motions showing good cause for extending this order by no later than 30 days before the expiration of this order.

19. Application 15-12-002 is closed.

This order is effective today.

Dated September 29, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

LIANE M. RANDOLPH

Commissioners

Commissioner Carla J. Peterman, being  
necessarily absent, did not participate.

APPLICATION 15-12-002

VOLCANO TELEPHONE COMPANY

---

# APPENDIX

# 1

**[Includes the Following:]**

THE ALL-PARTY SETTLEMENT AGREEMENT; AND THE COMPARISON OF  
PARTIES' POSITIONS AND SETTLEMENT TERMS